

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:20-CV-00504-FDW-DSC

CPI SECURITY SYSTEMS, INC.,

Plaintiff,

v.

VIVINT SMART HOME, INC. f/k/a
Mosaic Acquisition Corp.; and LEGACY
VIVINT SMART HOME, INC. f/k/a
Vivint Smart Home, Inc.,

**PLAINTIFF CPI SECURITY
SYSTEMS, INC.'S TRIAL
WITNESS LIST**

Defendants.

I. CPI EMPLOYEES

a. Expected to Testify

1. John Shocknesse, VP of Customer Operations, c/o Shook, Hardy & Bacon L.L.P., 2555 Grand Boulevard, Kansas City, Missouri 64108. Mr. Shocknesse will testify regarding deceptive sales practices complaints by CPI customers about Vivint and damages and other issues related to those complaints.
2. Eric Schachner, Chief Financial Officer of CPI Security Systems, Inc., c/o Shook, Hardy & Bacon L.L.P., 2555 Grand Boulevard, Kansas City, Missouri 64108. Mr. will testify regarding deceptive sales practices complaints by CPI customers about Vivint and damages and other issues related to those complaints, as well as CPI's trademarks as they relate to the issues in dispute.

b. May Testify

1. Kerr Putney, Chief Community and Government Relations Officer of CPI Security Systems, Inc., c/o Shook, Hardy & Bacon L.L.P., 2555 Grand Boulevard, Kansas City, Missouri 64108. Mr. Putney may testify regarding CPI's community relations and engagement, including but not limited to issues raised by Vivint as to alleged racist comments made by CPI's CEO Ken Gill in the summer of 2020.

2. Dave Matters, VP of Customers for Life and Inside Sales, c/o Shook, Hardy & Bacon L.L.P., 2555 Grand Boulevard, Kansas City, Missouri 64108. Mr. Matters may testify regarding deceptive sales practices complaints by CPI customers about Vivint and damages related to those complaints.
3. Chris Doyle, CPI Chief Marketing Officer of CPI Security Systems, Inc., c/o Shook, Hardy & Bacon L.L.P., 2555 Grand Boulevard, Kansas City, Missouri 64108. Mr. Doyle may be called to testify regarding deceptive sales practices complaints by CPI customers about Vivint and damages and other issues related to those complaints.
4. Matt Kurtz, former CPI employee, current address unknown. Mr. Kurtz has information regarding Vivint sales practices, including evidence of a Vivint sales pitch to Mr. Kurtz during the relevant timeframe.

II. CPI EXPERTS (Expected to Testify)¹

1. Russell Walker Mangum, III, Ph.D. Dr. Mangum will testify as to CPI's damages in the form of a forced royalty award consistent with his expert report.
2. Russell S. Winer, Ph.D. Dr. Winer will testify as to CPI's damages relating to corrective marketing and customer complaint rate issues consistent with his expert report.

III. CPI CUSTOMER WITNESSES (Expected to Testify)

The following customer witnesses may be called to testify regarding Vivint's deceptive and misleading sales practices as detailed in CPI's Amended Complaint:

a. By Deposition Designation

1. Laura Ward, 825 Gray Fox Trail, Sumter, South Carolina 29154
2. Joyce Mariso, 404 Sportsman Trail, Wendell, North Carolina 27590
3. Johgre Hinton, 1319 Gaby Lane, Knightdale, North Carolina 27545
4. Ginger Garren, 314 Cardwell Lane, Fletcher, North Carolina 28732
5. Shantell Cheek, 2408 Carlow Place, Winterville, North Carolina 28590

¹ All experts should be contacted only through counsel of record for CPI at Shook Hardy & Bacon, LLP, 1660 17th Street, Suite 450, Denver, Colorado 80202.

6. Larry Kodack, 302 Whitney Lane, Durham, North Carolina 27713
7. Janet Newmark, 2706 Cheverny Place, Concord, North Carolina, 28027
8. **Any CPI customer who reports deceptive or misleading conduct by Vivint following the service of this list up to and through the date of trial**

b. By Live Testimony or Contemporaneous Video Transmission Pursuant to Fed. R. Civ. P. 43(a) (All Expected to Testify Depending on Time Permitted by the Court)²

1. Ronald Armstead, 6926 Evanton Loch Road, Charlotte, North Carolina 27278
2. Janelle Blue-Faulkner 4729 Opus Lane, Charlotte, North Carolina 28214
3. Amanda Brown, 4600 Castleton Road, Charlotte, North Carolina 28211
4. Mae Bryant, 9836 Avensong Crossing Drive, Charlotte, North Carolina 28215
5. Kenneth Chambers, Grace Chambers, and Cedric Chambers, 3208 Banbury Drive, Charlotte, North Carolina 28216
6. Ashok Dantuluri, 10319 Rutledge Ridge Drive NW, Huntersville, North Carolina 28078
7. Keith Eason, 13734 Hunt Valley Drive, Huntersville, North Carolina 28078
8. Mahlon Floyd, Gail Floyd, and Kim Floyd, 38 Walnut Avenue, Concord, North Carolina 28027
9. Kenneth McCormick, 3820 Foxford Place, Charlotte, North Carolina 28215
10. Joe Midulla, 5913 Gate Post Road, Charlotte, North Carolina 28211
11. Anita Morrissey, 743 Gibson Drive NW, Concord, North Carolina 28025

² CPI reserves the right to call any customer listed on Exhibit A to its initial disclosures should the need arise.

12. Kristen Quinn, 2335 Amesbury Avenue, Charlotte, North Carolina 28205
13. Jasmine Walker, 4514 Triumph Drive SW, Concord, North Carolina 28027
14. Fromerian Wiles, 6906 Lowen Road, Charlotte, North Carolina 28269
15. Walter Childs III, 1742 Stoneybrook Court, High Point, North Carolina 27265
16. Roosevelt Brooks, 9435 Inverness Bay Road, Charlotte, North Carolina 28278
17. Ricardo D. Douglass Jr., 2387 Pixie Court SW, Concord North Carolina 28027
18. Twanda Smith, 629 Duncan Station Drive, Duncan, South Carolina 29334
19. Cindy Link, 1634 Emerald Valley Road, Columbia, South Carolina 29210
20. Matt Hiers, 376 Pickens Street, Rock Hill, South Carolina 29730
21. Lee Sturdivant and Arnita Sturdivant, 4384 Oak Pointe Drive, Winston-Salem, North Carolina 27105
22. Diamond Lott, 9163 Bradstreet Commons Way, Charlotte, North Carolina 28215
23. Odis Tabor, 3905 Treford Court, Greensboro, North Carolina 27406
24. Chris Love, 32 Rambling Drive, Elgin, South Carolina 29045
25. Joseph Montebello, 3057 Crosswind Drive, Indian Land, South Carolina 29707
26. Shawn Edward, 11477 Cedarvale Farm Parkway, Midland, North Carolina 28107
27. John Greene, 1322 Cushing Street, Greensboro, North Carolina 27405
28. Sheryl Paige, 649 Thornhill Drive, Columbia, South Carolina 29229
29. Kathy Davis, 4941 McDonald Lane, West Columbia, South Carolina 29172

30. Mark Green and spouse, 172 Vista View Drive, West Columbia, South Carolina 29172
31. John Allen and spouse, 13838 Pinyon Pine Lane, Charlotte, North Carolina 28215
32. Suzy Etheridge and spouse, 504 Foxton Lane, Burlington, North Carolina 27215
33. Harriett Betterson, 4600 Oxford Road, Columbia, South Carolina 29209
34. Britanie Walker, 824 Lockeslet Lane, Burlington, North Carolina 27217
35. Crystal Gill, 9033 Bradstreet Commons Way, Charlotte, North Carolina 28215
36. Christopher Powers, 9040 Bradstreet Commons Way, Charlotte, North Carolina 28215
37. John Chisholm, 7028 Amberly Hills Road, Charlotte, North Carolina 28215
38. Joy Thomas, 92 N. Lake Pointe Drive, Columbia, South Carolina 29229
39. Cornelia Johnson, 4267 Valley Crest Drive, Columbus, GA 31907
40. Henry Langford, 8720 Soaring Eagle Lane, Waxhaw, NC 28173³
41. **Any CPI customer who reports deceptive or misleading conduct by Vivint following the service of this list up to and through the date of trial**

IV. OTHER CUSTOMER WITNESSES (May Call by Deposition Designation Unless Noted as Will Call)

The following customers previously provided sworn deposition testimony against Defendants in cases styled as *ADT LLC and The ADT Security Corporation v. Vivint Smart Home, Inc. et al.*, Case No. 1:20-cv-23391-MGC (S.D. Fla.) and *ADT LLC and ADT US Holdings, Inc. v. Vivint, Inc.*, Case No. 9:17-cv-80432-DMM (S.D.

³ Mr. Langford was subject to a deceptive sale by Vivint which was reported to CPI on October 22, 2021 after the close of discovery.

Fla.). During discovery, Defendants have indicated that it is their position that the sales practices at issue are not widespread and instead are the result of limited “bad apple” or “rogue” sales people and that the conduct is limited in geographic scope and number. These customers will provide testimony as to their own respective encounters with Defendants’ sales people and will rebut Defendants’ claims that the conduct is not geographically widespread and is limited to only a few sales people. In addition, these customers’ testimony is relevant to the issue of Defendants’ sales representatives’ intent and to the related issue of punitive damages. Finally, these customers’ testimony is relevant to rebut Defendants’ defenses imposed in this case as to the issue of actual confusion under the Lanham Act and the appropriateness of a corrective marketing remedy. These customers, whose testimony CPI may provide via deposition designation (video), include the following⁴:

**Customer Witnesses in *ADT LLC and ADT US Holdings, Inc. v. Vivint, Inc.*,
Case No. 9:17-cv-80432-DMM (S.D. Fla.)**

1. Ivan Liechty, 302 Londonderry Court, Greer, South Carolina 29650
2. Willie Borne, 135 Saint Charles Bypass Road, Thibodaux, Louisiana 70301
3. Sara Devoli, 3117 Hull Street, Portsmouth, Virginia 23704
4. Elnora Bronson, 1409 Rockledge Drive, Junction City, Kansas 66440
5. Jerry Bronson, 1409 Rockledge Drive, Junction City, Kansas 66440
6. Sammy Pugh, 2108 Bloomsbury Road, Greenville, North Carolina 27585
7. Karen Scoville, 8381 Ascolano Avenue, Fair Oaks, California 95628

⁴ The customers within this set who are expected to testify are designated as “Will Call” below.

8. Le Arnold, 19527 E. Iowa Circle, Aurora, Colorado 80017
9. James Teems, 307 Greenmeadow Court, Colonial Heights, Virginia 23834
10. Lillian Toppins, 1928 Maple Avenue, Portsmouth, Virginia 23704
11. Diana Reeder, 1405 Hunter Drive Lake, Charles, Louisiana 33784 – **WILL CALL**
12. Trish Henry, 122 Bluegrass Creek Road, Youngsville, Louisiana 70592 – **WILL CALL**
13. James Harris, 703 Larry Street, San Antonio, Texas 78202
14. Karen Harris, 1122 W. Ashby Place, San Antonio, Texas 78201
15. Bethaney Wilkins, 4445 Crow Creek Drive, Colorado Springs, Colorado 80922
16. Dorothy Weston, 134 Riverwood Park Drive, Florissant, Missouri 63031 – **WILL CALL**
17. James Jolley, 2759 Artic Street, Las Vegas, Nevada 89121
18. Tena Jolley, 2759 Artic Street, Las Vegas, Nevada 89121
19. Brian Delaney, 25615 Pine Acres Circle, Spring, Texas 77380 – **WILL CALL**
20. Lucille Billingsley-Brown, 3120 Belmont Street, North Las Vegas, Nevada 89030 – **WILL CALL**
21. Kenny Tipler, 1024 W. Pontoon Road, Granite City, Illinois 62040
22. Rick Donaldson, 329 Lenox Avenue, Granite City, Illinois 62040

Customer Witnesses to date in *ADT LLC and The ADT Security Corporation v. Vivint Smart Home, Inc. et al.*, Case No. 1:20-cv-23391-MGC (S.D. Fla.)

1. Ko-Chin Chang, 4 Bookham Court, Gaithersburg, Maryland 20877 – **WILL CALL**
2. Randall Koehn, 2370 Deer Trail Creek Drive, Brighton, Colorado 80601

3. Juan Rubio, 608 Brightwood, Bakersfield, California 93314 – **WILL CALL**
4. Latoya (Miriam) Ssali, 3994 Tyne Court, College Park, Georgia 30349
5. Caren Haught, 728 Charles Avenue, Barberton, Ohio 44203 – **WILL CALL**
6. Victor Howdyshall, 41550 Coe Hollow Fruitdale Road, Nelsonville, Ohio 45764 – **WILL CALL**

V. FORMER AND CURRENT VIVINT EMPLOYEES (Expected to Testify by Deposition Designation, Unless Otherwise Noted)⁵

The following current and former Vivint employees will be called to testify via deposition designation. As detailed in such designations, these witnesses' testimony relates to Vivint's false and deceptive sales practices, Vivint's sales training, Vivint's responses to complaints about false and deceptive sales practices and other misconduct relating to Vivint's sales force, and other issues relating to CPI's Amended Complaint.

1. Nathan Wilcox (multiple depositions)
2. Jason Corbridge
3. John Taylor
4. Jared Young
5. Mark Fransen
6. Cheyenne Thatcher
7. Scott Brown
8. Scott Bell
9. Hari Rasolo

⁵ All to be presented by deposition designation unless made available for live testimony at trial. All care of Defense counsel.

10. David Madrid
11. David Steinbach
12. Jordan Binning – May Call by Live Testimony
13. Eric Trott – May Call by Live Testimony

VI. VIVINT OFFICERS, MANAGERS AND CORPORATE DESIGNEES (Will Call) (By Deposition Designation or Live Testimony)⁶

The following Vivint employees were designated by Vivint in response to CPI's notice of 30(b)(6) deposition of Vivint. These witnesses' testimony relates to Vivint's false and deceptive sales practices, Vivint's sales training, Vivint's responses to complaints about false and deceptive sales practices, and other issues relating to CPI's Amended Complaint as detailed in the topics listed in CPI's 30(b)(6) notice.

1. Vivint 30(b)(6) Designees/ Corporate Representatives
2. Pat Kelliher, Vivint Chief Accounting Officer
3. Kent Hanson, Vivint Vice President of Legal
4. Star Fowler, Vivint Chief People Officer
5. Bryan Brothers, Vivint Sales Employee
6. [Vivint's forthcoming corporate designee on issues relating to sales practices, whose identity is not currently known by CPI]

VII. VIVINT'S RETAINED EXPERTS (May Call)⁷

1. Mark Gustafson (Royalty Damages)
2. Brian Buss (Corrective Advertising Damages)

⁶ All care of Defense counsel.

⁷ By listing Vivint expert witnesses, CPI does not concede the admissibility of any such testimony. All Vivint experts are c/o Defendants' counsel.

VIII. OTHER (May Call)

1. Any individual listed on Vivint's witness list⁸
2. Any witness required to lay foundation for any exhibits⁹
3. Any witness to rebut any issue raised by Vivint's evidence

CPI expressly reserves the right to amend or supplement this list as additional information becomes available.

⁸ By cross-listing witnesses listed by Vivint, CPI does not concede the admissibility of any such testimony.

⁹ This includes, but is not limited to, customer Marc Bartalini—to the extent Vivint will not stipulate to the authenticity of the video provided by Mr. Bartalini to Vivint by email in VIVINT021543; and customer Cornelia Johnson—to the extent Vivint will not stipulate to the authenticity of the video provided by Ms. Johnson of her interaction with a Vivint sales representative produced as CPI00001883.